

# CHAPTER 1

## GENERAL PROVISIONS

Sec. 1-1	<i>Code</i> Citations and Designation.
Sec. 1-2	Rules of Construction.
Sec. 1-3	Definitions.
Sec. 1-4	Certain Ordinances Not Affected by <i>Code</i> .
Sec. 1-5	<i>Code</i> Does Not Affect Prior Offenses, Rights, etc.
Sec. 1-6	Effect of History Note.
Sec. 1-7	<i>Code</i> Application.
Sec. 1-8	Catchlines and Interpretation of Each Component Part of The <i>Code</i> .
Sec. 1-9	Supplementation of <i>Code</i> .
Sec. 1-10	Effect of Repeal of Ordinances.
Sec. 1-11	Effective Date of <i>Code</i> /Ordinances.
Sec. 1-12	Severability of <i>Code</i> .
Sec. 1-13	General Penalties.
Sec. 1-14	<i>Codes</i> -Property of the City.
Sec. 1-15	Clerk to Maintain List of <i>Codes</i> .
Sec. 1-16	<i>Codes</i> Available to Public for a Fee.
Sec. 1-17	Offenses Punishable Under Separate Provisions.
Sec. 1-18	City Seal.
Sec. 1-19	Through Sec. 1-25 Reserved for Future Use.

**\*\*Page 2 Reserved for Future Use.**

# CHAPTER 1

## GENERAL PROVISIONS

### Sec. 1-1 *Code Citation and Designation.*<sup>1</sup>

The ordinances embraced in the following Chapters, Articles, Divisions, and Sections shall constitute and be designated the "*Greenwood Municipal Code*," and may be so cited. (1983 *Greenwood Municipal Code*, § 1-1)

### Sec. 1-2 *Rules of Construction.*

(a) In the construction of this *Code*, and of all ordinances, the rules and definitions set out in this Section shall be observed, unless such construction would be inconsistent with the manifest intent of the Common Council. The rules of construction and definitions set out herein shall not be applied to any Section of this *Code* which shall contain any express provisions excluding such construction, or where the subject matter or context of such Section may be repugnant thereto.

(b) All general provisions, terms, phrases and expressions contained in this *Code* shall be liberally construed in order that the true intent and meaning of the Common Council may be fully carried out.

(c) In the interpretation and application of any provisions of this *Code*, they shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where any provision of the *Code* imposes greater restrictions upon the subject matter than another more general provision imposed by the *Code* or other law, the provision imposing the greater restriction or regulation shall be deemed to be controlling. (1983 *Greenwood Municipal Code*, § 1-2)

### Sec. 1-3 *Definitions.*<sup>2</sup>

The following definitions shall apply for use of this *Code*:

(1) **BOARD** shall mean the Board of Public Works and Safety.

(2) **CITY** shall mean the City of Greenwood, Indiana.

(3) **CLERK-TREASURER** shall mean the Clerk and Fiscal Officer of the City of Greenwood, a third class City.<sup>3</sup>

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<sup>1</sup> *I.C.*, 36-1-5-1 through *I.C.*, 36-1-5-6, address the codification of ordinances by all units of government except Townships.

<sup>2</sup> *I.C.*, 36-1-2-1 through *I.C.*, 36-1-2-24, set forth the definitions of general applicability.

<sup>3</sup> *I.C.*, 36-4-1-1, sets forth the classification of Indiana cities.

(4) **CODE** means the local government code of the City of Greenwood, Indiana, which is designated as the *Greenwood Municipal Code*.

(5) **COMMON COUNCIL, COUNCIL**. Whenever the term "Common Council" or "Council" is used, it shall be construed to mean the Common Council of the City of Greenwood. It is the legislative body consisting of seven (7) elected Council members.

(6) **COMPUTATION OF TIME**. The time within which any act provided by law is to be done shall be computed by excluding the first day and including the last. If the last day is a Saturday or Sunday, it shall be excluded and the next day shall be included, unless the notice specifically states otherwise.

(7) **CORPORATE LIMITS, CITY LIMITS**. The term "corporate limits" or "city limits" shall mean the legal boundaries of the City of Greenwood, except as otherwise provided by law.

(8) **COUNTY**. The words "the county" or "this county" shall mean the County of Johnson in the State of Indiana.

(9) **DELEGATION OF AUTHORITY**. Whenever a provision appears requiring the head of a department or some other City officer to do some act or perform some duty, it shall be construed to authorize the head of the department or other officer to designate, delegate and authorize subordinates to perform the required act or perform the duty unless the terms of the provision of Section specify otherwise.

(10) **ET SEQ.**, is a Latin phrase meaning "and the following."

(11) **GENDER**. A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships and corporations as well as to males.

(12) **I.C.**, shall refer to state law found in the *Indiana Code*.

(13) **JOINT AUTHORITY**. All words giving joint authority to three (3) or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

(14) **JURISDICTION**. Except as specifically provided otherwise, the provisions of this Code shall be interpreted to apply only within the corporate limits.

(15) **LAW**. The word "law" shall mean any applicable constitution, statute, ordinance, rule, or regulation promulgated by the City, or any agency thereof, the state, or any agency thereof, the United States, or any agency thereof, or any body politic and corporate, or agency thereof.

(16) **MAY**. The word "may" is permissive.

(17) **MAYOR**. The word "mayor" shall mean the Mayor of the City.

(18) **MONTH**. The word "month" shall mean a calendar month.

(19)**MUST and SHALL** are each mandatory.

(20)**NONTECHNICAL AND TECHNICAL WORDS.** Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

(21)**NUMBER.** A word importing the singular number only may extend and be applied to several persons and things as well as to one person and thing, and a word importing the plural may extend to the singular.

(22)**OATH.** The word "oath" shall be construed to include any affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."

(23)**OFFICERS GENERALLY.** Whenever any officer is referred to by title, such as "Clerk-Treasurer," "Chief of Police," etc., such reference shall be construed as if followed by the words "of the City of Greenwood."

(24) **OR, AND.** "Or" may be read "and" and "and" may be read "or" if the sense requires it.

(25)**OWNER.** The word "owner," applied to a building or land, shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant, or tenant by the entirety of the whole or of a part of such building or land.

(26)**PERSON.** The word "person" shall extend and be applied to associations, clubs, societies, firms, partnerships, bodies politic and corporate or any other group acting as a unit as well as to natural persons.

(27)**PERSONAL PROPERTY** includes every species of property except real property, as herein described.

(28)**PRECEDING, FOLLOWING.** The words "preceding" and "following" mean next before and next after, respectively.

(29)**PROPERTY.** The word "property" shall include real and personal property.

(30)**PUBLIC PLACE.** The term "public place" shall mean any street or highway, sidewalk, park, cemetery, school yard or open space adjacent thereto and any lake or stream, or any place or building open to the public, even if owned privately.

(31)**QUORUM.** The word "quorum" shall mean a simple majority of the members of a board, commission, committee, or Council holding office, unless otherwise specifically provided in this Code.

(32)**REAL PROPERTY** shall include lands, tenements and hereditaments.

(33)**REASONABLE TIME, REASONABLE NOTICE.** In all cases where any provision shall require any act to be done in a "reasonable time" or "reasonable notice" to be given to any person, such reasonable time or notice shall be deemed to mean such time only as may be necessary in the prompt execution of such duty or compliance with such notice.

(34)**SIDEWALK.** The word "sidewalk" shall mean any portion of a street between the curblineline and the adjacent property line intended for the use of pedestrians, excluding parkways.

(35)**SIGNATURE OR SUBSCRIPTION,** includes a mark when the person cannot write.

(36)**STATE.** The words "the state" or "this state" shall be construed to mean the State of Indiana.

(37)**STATE LAW REFERENCES** mean the *Indiana Code, I.C.*, and any subsequent amendments.

(38) **STREET.** The word "street" shall be construed to embrace streets, avenues, roads, alleys, boulevards, viaducts and all other public highways, including their rights of way, in the City.

(39)**SUBSTANTIAL PROPERTY INTEREST** shall mean any right in real property that may be affected in a substantial way by actions authorized by the Planning and Development laws of the State of Indiana, including a fee interest, a life estate, a future interest, a present possessory interest, or an equitable interest of a contract purchaser<sup>4</sup>

(40)**TENANT OR OCCUPANT.** The word "tenant" or "occupant," applied to a building or land, shall include any person holding a written or oral lease or who occupies the whole or a part of such building or land, either alone or with others.

(41)**TENSE.** Words used in the past or present tense include the future as well as the past and present.

(42)**WRITTEN OR IN WRITING.** The term "written" or "in writing" shall be construed to include any representation of words, letters or figures, whether by printing or otherwise.

(43)**YEAR.** The word "year" shall mean a calendar year. (*Code* 1968, § 1.02; 1983 *Greenwood Municipal Code*, § 1-2)

#### **Sec. 1-4 Certain Ordinances Not Affected By *Code*.**

Nothing in this *Code* or the ordinance adopting this *Code* shall affect any ordinance:

(1) Promising or guaranteeing the payment of money for the City, or authorizing the issuance of any bonds of the City or any evidence of the City's indebtedness, or any contract or obligations assumed by the City;

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<sup>4</sup> *I.C.*, 36-7-9-2, defines "substantial property interest."

- (2) Granting any right or franchise;
- (3) Dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way in the City;
- (4) Making any appropriation;
- (5) Levying or imposing taxes;
- (6) Establishing or prescribing grades in the City;
- (7) Providing for local improvements and assessing taxes therefor;
- (8) Dedicating or accepting any plat or subdivision in the City or otherwise relating to subdivisions;
- (9) Extending or contracting the boundaries of the City;
- (10) Prescribing the number, classification, benefits or compensation of any City officers or employees, not inconsistent herewith;
- (11) Prescribing specific parking restrictions, no-parking zones; specific speed zones; parking meter zones; and specific stop or yield intersections;
- (12) Pertaining to zoning or the City's zoning jurisdiction;
- (13) Relating to taxation, not inconsistent with this *Code*;
- (14) Which is temporary, although general in effect;
- (15) Which is special, although permanent in effect;
- (16) The purpose of which has been accomplished;

and all such ordinances are recognized as continuing in full force and effect to the same extent as if set out at length in this Code. Such ordinances are on file in the Clerk-Treasurer's Office. (1983 *Greenwood Municipal Code*, § 1-3)

**Sec. 1-5 Code Does Not Affect Prior Offenses, Rights, etc.**

- (a) Nothing in this *Code* or the ordinance adopting this *Code* shall affect any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of this *Code*.
- (b) The adoption of this *Code* shall not be interpreted as authorizing or permitting any use or the continuance of any use of a structure or premises in violation of any ordinance of the City in

effect on the date of adoption of this *Code*. (*Code* 1968, §§ 1.03, 1.04; *1983 Greenwood Municipal Code*, § 104)

**Sec. 1-6 Effect of History Note.**<sup>5</sup>

The presence of a history note, such as (*Code* 1968, § 3.18) or (Ord. No. 81-38, § 9, 12-22-81), at the end of any Section of this *Code* shall denote the derivation of the *Code* Section; in addition, the presence of such a history note, or of one similar to it, shall be a declaration and determination by the Common Council that said Section is a restatement or reenactment of a previously enacted ordinance, and that each such Section shall be deemed reordained by the passage of this *Code*. (*1983 Greenwood Municipal Code*, § 1-5)

**Sec. 1-7 Code Application.**

This *Code* shall refer only to the omission or commission of acts within the territorial limits of the City of Greenwood and to that territory outside this City over which the City has jurisdiction or control by virtue of any constitutional provision, law or otherwise lawful contract.

**Sec. 1-8 Catchlines and Interpretation of Each Component Part of The *Code*.**

(a) The black letter headings of the several Sections of this *Code* are intended as mere catchlines to indicate the content of the Section.

(b) Each Chapter is comprised of "Articles" which address subject matter classifications within the Chapter. Articles may then be divided into "Divisions" which further define the particular topics.

(c) Each Section of this *Code* shall be numbered consecutively by Chapter. The number shall consist of two (2) component parts separated by a dash, the figure before the dash referring to the Chapter number and the figure after the dash referring to the position of the Section within the Chapter.

(d) The decimal system shall be used for all additions or amendments to this *Code*. When a Chapter or Section is to be added, the new Chapter or Section shall be given a decimal character.

(e) Each Section which ends with parentheses includes historical citations to either the original ordinance or resolution, its original Section, and date of adoption of passage; or to the applicable Section of the *Greenwood Municipal Code* from which the Section was derived. Such information is a restatement or reenactment of material properly adopted, and each such section shall be deemed reordained by the passage and adoption of this *Code*.

**Sec. 1-9 Supplementation of *Code*.**

(a) By contract or by City personnel, supplements to this *Code* shall be prepared and printed

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<sup>5</sup> *I.C.*, 36-1-5-6, addresses restated or reenacted provisions of original ordinances.

whenever authorized or directed by the Common Council. A supplement to the *Code* shall include all substantive permanent and general parts of ordinances adopted during the period covered by the supplement and all changes made thereby in the *Code*. The pages of a supplement shall be so numbered that they will fit properly into the *Code*, and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the *Code* will be current through the date of the adoption of the latest ordinance included in the supplement.

(b) In preparing a supplement to this *Code*, all portions of the *Code* which have been repealed shall be excluded from the *Code* by the omission thereof from reprinted pages.

(c) When preparing a supplement of this *Code*, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:

- (1) Organize the ordinance material into appropriate subdivisions;
- (2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the *Code* printed in the supplement, and make changes in such catchlines, headings and titles;
- (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the *Code* and, where necessary to accommodate new material, change existing section or other subdivision numbers;
- (4) Change the words "this Ordinance" or words of the same meaning to "this Chapter," "this Article," "this Division," etc., as the case may be, or to "Sections \_\_\_\_\_ to \_\_\_\_\_" (inserting Section numbers to indicate the Sections of this *Code* which embody the substantive sections of the ordinance incorporated into the *Code*); and
- (5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance Sections inserted into the *Code*; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the *Code*. (1983 Greenwood Municipal Code, § 1-8)

#### **Sec. 1-10 Effect of Repeal of Ordinances.**

When any ordinance repealing a former ordinance, clause or provision shall be itself repealed, such repeal shall not be construed to revive such former ordinance, clause or provision unless it shall be therein so expressly provided.

The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal, for an offense committed or cause of action arising under the ordinance repealed. (1983 Greenwood Municipal Code, § 1-9)



**Sec. 1-11 Effective Date of *Code* Ordinances.**

(a) All of the provisions of this *Code* shall be in full force and effect from the date of passage pursuant to *I.C.*, 36-4-6-14, and the filing of two (2) copies of this *Code* in the office of the Clerk-Treasurer, and all ordinances of a general and permanent nature in force at that time which include the subject matter of the Chapters denominated herein, are repealed from and after said date.

(b) Unless otherwise expressly provided, an ordinance shall take effect when passed according to *I.C.*, 36-4-6-14.

**Sec. 1-12 Severability of *Code*.**

The Chapters, Articles, Divisions, Sections, paragraphs, sentences, clauses and phrases of this *Code* are severable, and if any Chapter, Article, Division, Section, clause, sentence, or paragraph of this *Code* shall be declared unconstitutional, invalid or unenforceable by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality, invalidity or unenforceability shall not affect any of the remaining Chapters, Articles, Divisions, Sections, clauses, sentences, and paragraphs of this *Code*. (*Code* 1968, § 1.09; 1983 *Greenwood Municipal Code*, § 1-10)

**Sec. 1-13 General Penalties.**

(a) Except as otherwise provided by state law, wherever in this *Code* or in any ordinance of the City, or rule or regulation promulgated by an officer or agency thereof under the authority invested by law or ordinance, any act is prohibited or is made or declared to be unlawful or an offense, or the doing of any act is required, or the failure to do any act is declared to be unlawful or an offense, where no specific penalty is provided therefor, the violation of any such provision of this *Code*, ordinance, rule or regulation is declared to be an offense and shall be punished by a fine not exceeding Two Thousand Five Hundred Dollars (\$2,500.00). (1983 *Greenwood Municipal Code* § 1-11)<sup>6</sup>

(b) For every day upon which any violation of this *Code* or any such ordinance, rule or regulation shall continue, a separate offense shall be deemed committed. In any prosecution based upon this Section it shall be necessary to allege only the first day with respect to which any forfeiture is assessable, and upon conviction, the offender shall be assessed for that day and each day subsequent thereto with respect to which it is proven and found that the person did commit such violation. (*Code* 1968, § 1.07; 1983 *Greenwood Municipal Code*, § 1-11)<sup>7</sup>

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<sup>6</sup> *I.C.*, 34-4-32-1 through 34-4-32-5, address infraction and ordinance violation enforcement proceedings.

<sup>7</sup> *I.C.*, 9-4-1-127.1, addresses Class C infractions; also see *I.C.*, 34-4-32-4.

(c) The City may bring a civil action to enjoin any person from:

(1) Violating any ordinance, regulation or prohibiting a condition or use of property; or<sup>8</sup>

(2) Engaging in conduct without a permit or license if an ordinance requires a permit or license to engage in the conduct.<sup>9</sup>

(d) The Court may suspend all or any part of a penalty imposed for an ordinance violation and may require as a condition of such suspension that the defendant shall perform uncompensated work that benefits the community.<sup>10</sup>

#### **Sec. 1-14 Codes—Property of the City.**

All copies of the *Greenwood Municipal Code*, except those which are sold pursuant to Section 1-16 hereof, shall be the property of the City of Greenwood, and any such copies delivered over to elected and/or appointed officials or officials shall not be retained after the expiration of their term or terms of office or appointment. (Ord. No. 83-27, § 8, 11-7-83)

#### **Sec. 1-15 Clerk to Maintain List of Codes.**

The Clerk-Treasurer of the City of Greenwood shall maintain in her office a record of all persons or offices having a copy of the *Code*, other than those persons purchasing said *Code* and the Clerk shall be responsible for securing the return of said *Codes* in accordance with Section 1-14. (Ord. No. 83-27, § 9, 11-7-83)

#### **Sec. 1-16 Codes Available to Public for a Fee.**

The Clerk-Treasurer of the City of Greenwood shall make available to the general public unbound copies of this *Code*, and from time to time, revisions and updates thereto. The aforesaid *Code* may be purchased by the general public from said Clerk-Treasurer at a cost established from time to time by the Common Council. The revisions and updates thereto may be purchased by the payment to the Clerk-Treasurer of an amount to be determined by the Clerk-Treasurer or Council, which amount shall be the cost to the City of said update or revision. (Ord. No. 83-27, § 10, 11-7-83)

#### **Sec. 1-17 Offenses Punishable Under Separate Provisions.**

In all cases where the same offenses may be made punishable or may be created by different clauses or Sections of the ordinances of the City, the prosecuting officer may elect under which to proceed, but not more than one recovery shall be had against the same person for the same offense. (1983 *Greenwood Municipal Code*, § 1-12)

<sup>8</sup> I.C., 36-1-6-2, addresses ordinance violations affecting real property and the City taking expenses of securing compliance as a lien against the property.

<sup>9</sup> I.C., 36-1-6-4, addresses injunctions.

<sup>10</sup> I.C., 36-1-3-8, addresses the maximum ordinance violation amounts.

**Sec. 1-18 City Seal.**

The City Seal of Greenwood, Indiana, is depicted on the Certification page of this *Code*.

**Sec. 1-19 through 1-25 Reserved for Future Use.**

**\*\*Pages 13 through 21 Reserved for Future Use.**